

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON24 HOUR FITNESS USA, INC. A  
California corp. dba 24 HOUR  
FITNESS,

Petitioner,

vs.

NATHAN SPENCER,

Respondent.

NO. CV-11-0476-LRS

ORDER OF DISMISSAL

The Court has previously ordered the petitioner 24 Hour Fitness USA, Inc. (“24 Hour”) to show that it properly served respondent Roby; and to show cause why this Court should not dismiss this action under the “first to file” rule and under the principles of comity and sound judicial administration that are of concern in the eight nearly identical cases filed in this district. More specifically, the Court was requesting petitioner show why this case should not be dismissed as duplicative of an earlier petition filed by respondent in the United States Court for the Northern District of California. Principles of comity and sound judicial administration counsel a court to decline jurisdiction over an action when a case involving the same parties and issues has previously been filed in another district. *Pacesetter Systems, Inc. v. Medtronic, Inc.*, 678 F.2d 93, 94-95 (9<sup>th</sup> Cir.1982). This Court also has had serious concerns, from the inception of the case, that 24 Hour was employing an insufficient method of service on the respondent.

The Court has reviewed the timely filed response to the Order to Show Cause and

Of significance, Judge Conti granted Plaintiff Gabe Beauperthy's request for injunctive relief under the first-to-file rule and enjoined 24 Hour from further prosecuting or filing any out-of-district Petitions to Compel Arbitration against any of the 983 individuals who presented demands for arbitration before JAMS in San Francisco. Judge Conti further ordered 24 Hour to file a copy of this Order in each of the currently pending out-of-district cases within seven (7) days of the signature date of that Order. 24 Hour has filed Judge Conti's Order in the above-referenced case. In light of the foregoing, the Court hereby **DISMISSES** this action and **DENIES as MOOT** petitioner's Motion to Compel, ECF No. 1. The Clerk is directed to file this Order and **CLOSE THE FILE**.

**DATED** this 13th day of August, 2012.

*s/Lonny R. Suko*

\_\_\_\_\_  
LONNY R. SUKO  
UNITED STATES DISTRICT JUDGE